

Docket No.: 50100-786



PATENT

2664 #4
Reg. for
Recon.
8/25/01

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

John CHIANG, et al.

Serial No.: 09/304,964

Filed: May 05, 1999

For: DYNAMIC TIME SLOT ALLOCATION IN INTERNAL RULES CHECKER
SCHEDULER

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Group Art Unit: 2664

Examiner: K. Yao

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REQUEST FOR RECONSIDERATION

Commissioner for Patents
Washington, DC 20231

Sir:

This request is submitted in response to the Office Action mailed June 5, 2001.

Claims 1-18 have been rejected under 35 U.S.C. 102(e) as being anticipated by Sohraby.

This rejection is respectfully traversed for the following reasons.

It is well settled that the Examiner bears the initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention under any statutory provision. *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). Anticipation under 35 U.S.C. § 102 requires the disclosure in a single reference of each element of a claimed invention. *Minnesota Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992). In rejecting a claim under 35 U.S.C. § 102, it is incumbent upon the Examiner to point out specifically wherein an applied reference discloses each feature of the claimed invention. *In re Rijckaert*, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); *Lindemann Maschinenfabrik GMBH*

v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984). It is respectfully submitted that the Examiner did not discharge that burden.

Independent claim 1 recites a multiport data communication system for switching data packets between ports. The data communication system comprises:

- a plurality of receive ports for receiving data packets,
 - a decision making engine responsive to the received data packets for controlling transmission of the received data packets to at least one selected transmit port,
- the decision making engine including:
- a plurality of queuing devices corresponding to the plurality of the receive ports for queuing data blocks representing the data packets received by the corresponding receive ports,
 - logic circuitry for receiving the data blocks from the plurality of queuing devices in successive time slots to identify the at least one selected transmit port for each data packet, and
 - a scheduler interacting with the plurality of queuing devices for dynamically allocating each of the time slots to one of the plurality of queuing devices in accordance with data traffic at the corresponding receive ports.

It is respectfully submitted that the Examiner did not point out wherein the reference discloses the decision making engine including:

- a plurality of queuing devices corresponding to the plurality of the receive ports for queuing data blocks representing the data packets received by the corresponding receive ports,
- logic circuitry for receiving the data blocks from the plurality of queuing devices in successive time slots to identify the at least one selected transmit port for each data packet, and

-a scheduler interacting with the plurality of queuing devices for dynamically allocating each of the time slots to one of the plurality of queuing devices in accordance with data traffic at the corresponding receive ports.

Considering the rejection, it appears that the Examiner considers the output port processor 230 of Sohraby to correspond to the claimed decision making engine.

However, the output port processor 230 does not comprise a plurality of queuing devices corresponding to the plurality of the receive ports for queuing data blocks representing the data packets received by the corresponding receive ports, logic circuitry for receiving the data blocks from the plurality of queuing devices in successive time slots to identify the at least one selected transmit port for each data packet, and a scheduler interacting with the plurality of queuing devices for dynamically allocating each of the time slots to one of the plurality of queuing devices in accordance with data traffic at the corresponding receive ports.

Further, independent claim 12 recites a method of data processing comprising the steps of:

-placing data blocks representing received data packets in a plurality of data queues corresponding to the plurality of the receive ports,

-transferring the data queues in successive time slots to logic circuitry for determining the at least one transmit port, and

-dynamically allocating the time slots to the data queues in accordance with data traffic at the corresponding receive ports.

The Examiner did not address these steps. However, it is submitted that the reference does not describe the steps recited in claim 12.

Moreover, the Examiner failed to address limitations of dependent claims 2-11, and 13-18. It is respectfully submitted that Sohraby does not disclose the subject matter of these claims.

Accordingly, it cannot be said that Sohraby describes the claimed invention within the meaning of 35 U.S.C. § 102. *Minnesota Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc., supra.* Applicants, therefore, respectfully submit that the rejection of claims 1-18 under 35 U.S.C. § 102 as anticipated by Sohraby is untenable and should be withdrawn.

In view of the foregoing, and in summary, claims 1-18 are considered to be in condition for allowance. Favorable reconsideration of this application is respectfully requested.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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